

Reorganizing for the Future *...together*



The Diocese
of Burlington

"So if anyone is in Christ,
there is a new creation: everything old has passed away;
see, everything has become new!" 2 Corinthians 5:17

Message from Bishop Edward B. Scharfenberger



My Dear Sisters and Brothers in Christ,

The decision - supported by the Diocesan Finance Council as well as the College of Consultors - to pursue Chapter 11 reorganization is one that has not been taken lightly. It is one, however, that now provides us a unique opportunity to plan for the future while doing all we can to bring about justice and healing for those who have been harmed as a result of sexual abuse by members of the clergy. Their care must be our first priority. As a family, we walk with one another, assisting and embracing all survivors as members of our family. At the same time, this path toward reorganization will enable us to continue uninterrupted the vital work of Faith - our mission of proclaiming the living Good News of Jesus Christ - that each and every day is carried out across Western New York.

Admittedly, you will have many questions and concerns. It is our commitment to do our best to provide as much clarity as possible about the implications of reorganization on the various ministries of the Diocese, jobs, parish life, and our schools and institutions that are vital to the fabric of our life. We hope that this booklet will give you the essential information and answers to the most frequently asked questions. The designated web page at: buffalodiocese.org will be updated regularly with developments and additional information as it becomes available.

It is important to note that the Diocese of Buffalo is not the first diocese to voluntarily choose this path of reorganization. I can confirm that most - if not all - report emerging stronger, more focused in their core mission and purpose, and more united in having dealt collaboratively, with prayer and mutual support, in dealing with the challenges we are resolved to overcoming.

Most importantly, I ask for your constant prayers for our local Church - for all your sisters and brothers - whose witness and faithfulness is the bright light that pierces the darkest circumstances and shines a guiding and constant light on our path forward!

Sincerely in Christ,

+Edward B. Scharfenberger

Bishop Edward B. Scharfenberger
Apostolic Administrator

Why are we doing this?

The Diocese of Buffalo has determined that it is in the best interests of victims of past clergy sexual abuse, as well as the ongoing and essential work of Faith in Western New York to pursue reorganization through Chapter 11.

The benefits include:

1

A path toward resolution and healing for victims who seek restitution, justice and healing as a result of the New York State Child Victims Act.

2

A more equitable distribution of financial settlements given that litigation would inevitably result in a small number of claimants who were first to file their claims receiving compensation, and in light of limited Diocesan resources.

3

The ability to continue without interruption the essential ministries of the Church. This path towards reorganization will enable us to continue the vital works of our Catholic Faith - fulfilling our mission of evangelization which includes proclaiming the living Good News of Jesus Christ and the requirement of service to others that is carried out throughout our Diocese.



Frequently Asked Questions

About Chapter 11

What exactly is Chapter 11?

A Chapter 11 filing is a voluntary action taken by a organization or entity to reorganize financially with the goals of being able to respond to the financial claims of those to whom it has financial obligations, while also being in a position to continue its operations and remain viable. Chapter 11 does not mean the entity is going out of business or is insolvent. Under Chapter 11, an entity generally maintains its normal operations and continues to provide employees with salaries and benefits, and retiree benefits. It continues to do business in a routine manner while working to satisfy financial obligations as mandated by the court.

Why is the Diocese seeking Chapter 11 now?

Following the passage of the New York State Child Victims Act last year, a one-year window of opportunity (from August 14, 2019 to August 13, 2020) to commence previously time-barred lawsuits for claims of childhood sexual abuse was opened. As a result, the Diocese faces over 250 lawsuits involving claims of sexual abuse of a minor, most dating back decades. Litigation costs and settlements or jury awards in such lawsuits have the potential to exceed many millions of dollars. The cost to litigate and resolve these claims will mean that only those “first in line” will likely receive financial compensation. Those further down the line - or who filed later - will most likely receive little or no compensation in view of the Diocese’s limited available resources. This would also harm the Diocese’s ability to continue many of its essential programs, outreach and ministries that serve so many throughout Western New York.

What if the Diocese didn’t file for Chapter 11?

The Diocese would continue to face and be forced to respond to multiple civil actions. This would prove to be a slow, unpredictable and costly process that would require years of litigation and uncertainty for victims and the Diocese. Those claimants who filed suits first or pursued their claims more aggressively would receive a larger portion of funds that are available to pay victims. As a result, later claimants, even those who may have suffered greater harm, may receive little or nothing. Most importantly, such lengthy proceedings would only delay justice for the victims and prolong their pain and suffering.

Does the Diocese have insurance?

Yes. The Diocese is in negotiations with its insurers to respond to claims. The Diocese anticipates that insurance recoveries will be a source of funding for the required victims’ fund.



Frequently Asked Questions About Chapter 11

Who made this decision to file for reorganization under Chapter 11?

Bishop Edward B. Scharfengerger, the Apostolic Administrator of Buffalo, made this decision after the required consultation and consent of the Diocesan Finance Council and the College of Consultors. He has likewise consulted with additional laypersons who possess relevant expertise.

Do legal costs associated with this filing just add to the Diocese's financial burden?

Certainly, there are legal costs associated with filing under Chapter 11, but there would also be legal expenses to defend the Diocese in State Court litigation. Filing under Chapter 11 is the best course of action given the financial liability the Diocese faces. One important aspect of filing for Chapter 11 protection is that filing stops all civil actions, judgments, collection activities and related actions by claimants. The stay, in effect, provides time for the organization filing for Chapter 11 protection to form a reorganization plan detailing how the available assets that it has will be used to pay claims and negotiate reasonable settlements.

Will the Diocese still have to defend itself against lawsuits in civil court during reorganization?

No. Chapter 11 prevents all pending lawsuits from going forward, and prevents new lawsuits against the Diocese from being commenced, in favor of defining a coordinated and organized process for resolving claims in a fair and equitable manner.

How long does reorganization take under Chapter 11?

There is no set schedule as to how long it takes a debtor to reorganize under Chapter 11. Other dioceses have emerged from Chapter 11 within 2-5 years. The Diocese's hope is to bring this to a conclusion as soon as possible.

What does reorganization mean for victims and their court cases?

The Diocese has limited resources for adequately responding to claimants under the Child Victims Act. It is believed and hoped that Chapter 11 will provide the victims, any other claimants, as well as the Diocese and its insurers with a constructive process to resolve these claims, compensate victims in a fair, equitable, and timely manner, while continuing the work of the Diocese. As part of our reorganization plan, the Diocese intends to create a fund with a pool of money from both Diocesan funds and money from insurance carriers. The Diocese has provided counseling to victims and intends to continue to provide those services while in the Chapter 11 reorganization process.

Will the victims have the opportunity to receive resolution to their claims in a Chapter 11 process?

We believe that this approach offers the fairest outcome for all claimants who seek restitution and acknowledgment of the harm they have experienced.

What financial control will the Court have over the Diocese in Chapter 11?

The Court will hear and decide on the Diocese's requests to conduct business as usual, e.g. carrying out its ministries, paying its employees, while the Diocese develops and submits a reorganization plan to satisfy all claimants in a fair and equitable manner.

Will the Diocese be able to pay employees as usual as it reorganizes?

Yes, the Diocese will continue to pay employees and retiree benefits in the ordinary course of business. This is one of the benefits of Chapter 11 reorganization, namely, the ability to continue critical missions as normal.



Frequently Asked Questions

How will reorganization impact

Parishes

How will reorganization affect the daily operation of the Diocese, its parishes, schools and affiliated agencies?

The parishes in the Diocese of Buffalo are separately incorporated under New York State's Religious Corporation Law. Charitable entities such as Catholic Charities are separately incorporated under New York's Not-for-Profit Corporation Law. The ministries and operations of parishes and entities such as Catholic Charities should not be directly affected by the Diocese's Chapter 11 proceeding.

If the Diocese is in Chapter 11, is my parish in Chapter 11 as well?

No. In short, all 161 parishes in Western New York will not be part of the Chapter 11 filing. Parishes are incorporated as separate entities and will not be in Chapter 11.

Will the Diocese sell parish property or use parish assets to pay its debts?

No. Parishes are incorporated as separate entities. The Diocese cannot use parish assets or property to settle claims. It is not expected that daily parish life, including the celebration of the sacraments, will be directly impacted by the Chapter 11 reorganization. One way in which the Diocese hopes to positively impact parishes is to seek a court-approved process which allows Child Victims Act-related litigation against affected parishes to be resolved in the same way as claims against the Diocese. If approved by the Court, claims against the parishes and Diocese are expected to be directed to a fund established for victims through what is known as a "channeling injunction." In this manner, all claims would be satisfied from the same fund.

What happens to my contributions made at the Sunday offertory - or my contribution to the annual Diocesan Appeal?

As part of the reorganization plan, the Diocese intends to create a Victims Fund with a pool of funds from the Diocese and insurance carriers. The Diocese is working with insurance carriers to determine the extent of coverage. Claims against the parishes, agencies and Diocese are expected to be directed to the Victims Fund through a process by which they are protected as part of the Chapter 11 reorganization. All claims



Frequently Asked Questions

How will reorganization impact

Donations

I am hesitant to give to an organization that is filing Chapter 11 reorganization. Why should I?

Your contributions provide funding to operate crucial ministries for people of all walks of life. While the Diocese reorganizes, these needs continue and can only be met with the financial support of the faithful. It is central to the reorganization of the Diocese that it must continue to fulfill its ministries to the people of Western New York.

Will my gift to Catholic Charities be used to pay legal settlements?

No. Catholic Charities is a separate legal entity, and its assets will not be used to pay obligations that are solely that of the Diocese.

What about donations to Fund for the Faith?

Donations received by the Diocese will be used, first and foremost, to fund the current ministries of the Diocese that are carried out during the 2020-2021 fiscal year. The Diocese anticipates that victim claims and legal expenses will be funded primarily from unrestricted reserves of the Diocese and available insurance.

What about my donation to Upon This Rock or the Foundation?

Donations, gifts and pledge payments made to Upon This Rock and/or the Foundation of the Roman Catholic Diocese of Buffalo (the "Foundation") will not be used to pay obligations of the Diocese. As a charitable entity separately incorporated under New York Not-For-Profit Corporation Law, the Foundation has a legal and fiduciary duty to ensure that restricted gifts and donations that are made to the Foundation are used to support the ministries and programs for which they were intended. In that regard, as the sponsor, processor and depository of the Upon This Rock capital campaign funds, Upon This Rock pledge payments are made to and held by the Foundation, not the Diocese of Buffalo.

The Foundation operates as a separate legal entity under the direction of its Executive Director and Board of Trustees. The Foundation continues to be committed to protecting and enhancing our donors' gift intentions and ensuring that those funds directly benefit the needs of various Catholic agencies and ministries which provide vital programs and services throughout the Western New York community.